

**Notice of Allowability**

Application No.

10/613,374

Examiner

Nathan M. Nutter

Applicant(s)

DATTA ET AL.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6 May 2005.
2. ☒ The allowed claim(s) is/are 47-53, 55-62 and 69-98.
3. ☒ The drawings filed on 21 April 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 0405
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 0405 and 20050505.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

No prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising (A) at least one polymer having crystallizable propylene sequences and comprising about 60 to about 98 weight percent of the blend, wherein from about 92.7 to about 82.2 weight percent of the units are derived from propylene and from about 7.3 to about 17.8 weight percent of the units are derived from a comonomer selected from the group consisting of ethylene and an unsaturated monomer other than ethylene and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claims 47-49.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of (A) a polymer blend comprising at least one polymer having crystallizable propylene sequences and comprising about 60 to about 98 weight percent of the blend, wherein from about 96 to about 65 weight percent of the units are derived from propylene and from about 4 to about 35 weight percent of the units are derived from a comonomer selected from the group consisting of ethylene and an unsaturated monomer other than ethylene and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claims 50-52.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising (A) at least one polymer having crystallizable propylene sequences and having a molecular weight distribution of from about 1.8 to about 4.5 and comprising about 60 to about 98 weight percent of the blend,

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wherein from about 95 to about 92 weight percent of the units are derived from propylene and from about 5 to about 8 weight percent of ethylene units and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A) , as recited in claims 53, 55, and 56.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising (A) at least one polymer having crystallizable propylene sequences and comprising about 30 to about 98 weight percent of the blend, wherein from about 95 to about 92 weight percent of the units are derived from propylene and from about 5 to about 8 weight percent of the units are ethylene derived, and polymer (A) is produced from a catalyst system comprising hafnium and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A) , as recited in claims 57-62.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising (A) at least one polymer having crystallizable propylene sequences, a molecular weight distribution of from about 1.8 to about 4.5 and comprising about 60 to about 98 weight percent of the blend, wherein from about 96 to about 65 weight percent of the units are derived from propylene and from about 4 to about 35 weight percent of the ethylene derived units and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claims 69-74.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising at least one polymer (A) having

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crystallizable propylene sequences, a molecular weight distribution of from about 1.8 to about 4.5 and comprising about 60 to about 98 weight percent of the blend, wherein from about 92.7 to about 82.2 weight percent of the units are derived from propylene and from about 7.3 to about 17.8 weight percent of the ethylene derived units and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claims 75-80.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising at least one polymer (A) having crystallizable propylene sequences and comprising about 60 to about 98 weight percent of the blend, wherein from about 96 to about 65 weight percent of the units are derived from propylene and from about 4 to about 35 weight percent of the units are ethylene derived, and polymer (A) is produced from a catalyst system comprising hafnium and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claims 81-88.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising at least one polymer (A) having crystallizable propylene sequences and comprising about 60 to about 98 weight percent of the blend, wherein from about 92.7 to about 82.2 weight percent of the units are derived from propylene and from about 7.3 to about 17.8 weight percent of the units are ethylene derived, and polymer (A) is produced from a catalyst system comprising hafnium and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claims 89-96.

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Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising at least one polymer (A) having crystallizable propylene sequences, a narrow compositional distribution and comprising about 60 to about 98 weight percent of the blend, wherein from about 96 to about 65 weight percent of the units are derived from propylene and from about 4 to about 35 weight percent of the ethylene derived units and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claim 97.

Further, no prior art has been found that either teaches or fairly suggests the production of an article of a polymer blend comprising at least one polymer (A) having crystallizable propylene sequences, a narrow compositional distribution and comprising about 60 to about 98 weight percent of the blend, wherein from about 92.7 to about 82.2 weight percent of the units are derived from propylene and from about 7.3 to about 17.8 weight percent of the ethylene derived units and at least one polymer (B) comprising an isotactic thermoplastic polymer other than polymer (A), as recited in claim 98.

Since there are no other outstanding issues with regard to the clarity or enablement of the claims, these claims are deemed to contain allowable subject matter.

### ***Double Patenting***

A proposed rejection of claims 47-53, 55-62 and 69-98 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,642,316. Although the conflicting claims are not identical, they are not patentably distinct from each other because the blends of the

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reference would embrace those as recited and claimed herein in compositional content and monomeric make-up of the resins. As such, the use of the resin blend of the patent, as broadly disclosed, to produce film articles of manufacture would be an obvious step. The timely filed Terminal Disclaimer of 25 May 2005 is sufficient to overcome this proposed rejection.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 5 May 2005 has been considered by the examiner.

The English translations of Tsutsui et al (JP Patent Application Kokai No.: S62-119215) and of Tsutsui et al (JP Publication of Patent Application No.: Hei 06(1994)-104698) are retained of interest.

The translation of Tsutsui et al (JP Patent Application Kokai No.: S62-119215) teaches the manufacture of polymer blends of a propylene-based random copolymer with ethylene copolymers, similar to those herein recited and claimed. The reference teaches the inclusion of propylene monomers in the polypropylene constituent to be "in the range of 30 to 90 mole %," and the "ethylene component is in the range of 10 to 70 mole %," at the first two lines of page 2. This excludes the ranges recited in claims 53, 55-62 and 89-96. Further, the blending ratio of the copolymers is taught at page 10, first full paragraph, of the translation to be "1 to 100 parts by weight" of the polypropylene to "100 parts by weight of the said ethylene type polymer," or approximately 0.5 to 50

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weight percent of the blend being the polypropylene. This excludes the ranges of constituents recited in claims 47-53, 55, 56 and 69-98. Finally, the reference teaches the use of catalysts of zirconium and alumoxane at the paragraph bridging page 7 to page 8, which are of different scope and would not be deemed to be obvious over the hafnium catalyst system employed herein, as recited in instant claims 57-62 and 81-96.

The translation of Tsutsui et al (JP Publication of Patent Application No.: Hei 06(1994)-104698) teaches the manufacture of polymer blends of a propylene-based random copolymer with ethylene copolymers, similar to those herein recited and claimed. The reference fails to teach the monomeric constituents for the polypropylene component, as recited. Note page 2 and page 3 under "A)." Further, note the blending ratios at page 30, first full paragraph. The polypropylene is not taught to be isotactic, as claimed herein.

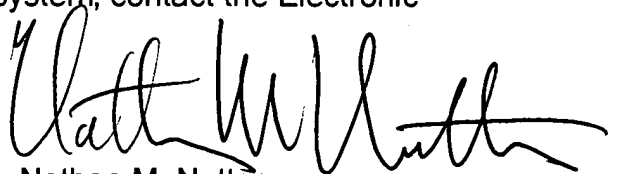
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Nathan M. Nutt", is written over the printed name and title.

Nathan M. Nutt  
Primary Examiner  
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nmn

15 May 2005